

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 9044

October 28, 2021

SUMMARY OF BILL: Establishes a new discriminatory practice under the *Tennessee Human Rights Act*, for: a person to refuse, withhold from, or deny to an individual local or state services, goods, facilities, advantages, privileges, licensing, educational opportunities, healthcare access, or employment opportunities based on the individual's vaccination status or whether the individual has an immunity passport; an employer to refuse employment to an individual, to bar an individual from employment, or to discriminate against an individual in compensation or in a term, condition, or privilege of employment based on the individual's vaccination status or whether the individual has an immunity passport; or a place of public accommodation, resort, or amusement to exclude, limit, segregate, refuse to serve, or otherwise discriminate against an individual based on the individual's vaccination status or whether the individual has an immunity passport.

Establishes that it is not a discriminatory practice for a person, governmental entity, or an employer to recommend that an individual receive a vaccine.

Establishes that these prohibitions do not apply to vaccination requirements for a school, nursery, kindergarten, preschool, or child care facility. Excludes healthcare facilities from unlawful discrimination violations if the facility asks employees to volunteer vaccination status to determine if the facility should implement reasonable accommodation to protect the safety and health of employees, patients, and visitors, and implements such measures. Exempts nursing homes or assisted-care living facilities from compliance with these provisions if compliance would violate regulations issued by the federal Centers for Medicare and Medicaid Services or the federal Centers for Disease Control and Prevention.

Prohibits an individual from being required to receive a vaccine whose use is allowed under an emergency use authorization or a vaccine undergoing safety or clinical trials.

Authorized the Tennessee Human Rights Commission (THRC) to impose a civil penalty of five thousand dollars for each violation of the proposed legislation.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$23,700/FY21-22

**/Tennessee Human Rights Commission
\$47,400/FY22-23 and Subsequent Years
/Tennessee Human Rights Commission**

Assumptions:

- The addition of discriminatory practices under the Human Rights Act is estimated to significantly increase the number of phone calls, online complaint submittals, and case processing on behalf of the Tennessee Human Rights Commission (THRC).
- The THRC will require an additional Intake Specialist, or Administrative Services Assistant 3, for the volume of contact estimated to generate from the proposed legislation.
- A recurring increase in state expenditures to the THRC of \$47,424 (\$34,884 salary + \$12,540 benefits).
- The proposed legislation is effective upon becoming a law. It is assumed the THRC would fill the position on January 1, 2022. The FY21-22 increase in expenditures will be half of future fiscal years, or \$23,712 (\$47,424 x 50.0%).
- An increase in state expenditures of \$47,424 in FY22-23 and subsequent years.
- Any impact on civil penalty collections is estimated to be not significant.
- There is not estimated to be a significant increase in caseloads; therefore, any impact to the state or local court system is estimated to be not significant.
- The U.S. Supreme Court issued a ruling in February 20, 1905, Jacobson v. Massachusetts, upholding the right of states to compel vaccination.
- Each state decides which vaccines are required based on recommendations from the Centers for Disease Control and Prevention Advisory Committee on Immunization Practices (ACIP).
- Immunization or vaccination for COVID-19 is currently not required by any state or local governmental entity in Tennessee. Prohibiting any such future requirement will not result in a significant fiscal impact to the state or local government.
- The DOH, county health departments, and county boards of health can adhere to the provisions of the legislation within existing resources.
- If the proposed legislation prohibits a state or local entity or private business from following any future federal vaccination mandate, federal funding could be jeopardized.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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